IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.K.DENESAN

WEDNESDAY, THE 21ST FEBRUARY 2007 / 2ND PHALGUNA 1928

WP(C).No. 2955 of 2007(B)

PETITIONERS:

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1. DR.C.D.VINSTON, MELEMANGALAM HOUSE,
NATHAPURAM, PUTHIYATHURA P.O.,
THIRUVANANTHAPURAM.

2. T.GOPAKUMAR, KUZHIVELI VEEDU,
MATHOOR, ARUVIKKARA P.O., THIRUVATTOM,
KANNYAKUMARI DISTRICT.

3. DR.K.NOUSHAD, PANAGATTIL,
ALUMMOODU, KANIYAPURAM, THIRUVANANTHAPURAM
DISTRICT.

4. MEENA M.KHAN, SULEKHA,
CHITTATTUMUKKU P.O., KANIYAPURAM,
THIRUVANANTHAPURAM DISTRICT.

BY ADV. SRI.P.GOPALAKRISHNAN NAIR
SRI.A.SAJAD
SRI.A.SAMEER (TRIVANDRUM)
SRI.THOUFEEK AHAMED

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY
THE CHIEF SECRETARY, SECRETARIAT,
THIRUVANANTHAPURAM.

2. KERALA PUBLIC SERVICE COMMISSION,
REPRESENTED BY ITS SECRETARY,
PATTOM, THIRUVANANTHAPURAM.

3. THE DIRECTOR OF HOMEOPATHY,
THIRUVANANTHAPURAM.

R1 & 3 BY GOVT. PLEADER SHRI.BIJOY CHANDRAN.
R2 BY SHRI.P.C.SASIDHARAN, SC, PSC.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 21/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.K.DENESAN, J.

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WP(C).No.2955 OF 2007-B.

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Dated this the 21st day of February, 2007.

J U D G M E N T

The petitioners were included in the rank list published by the Public Service Commission for appointment to the post of Medical Officers in the Homoeopathy Department. The rank list came into force on 17-7-1996 and it ceased to be in force with effect from 16-7-1999. According to the petitioners, while the rank list remained in force, 60 vacancies were reported by the Homoeopathy Department pursuant to the directions issued by this Court vide Exts.P5 and P6 orders. But the communication sent to the Public Service Commission reporting the vacancies was withdrawn subsequently. Thereafter, Government reconsidered the matter and requested the Public Service Commission to take decision regarding the prospects of operating the rank list so as to advise candidates against 50 vacancies said to have been in existence during the currency of the list. The Commission expressed disagreement with the proposal made by the Government in its letter dated 5-8-2003. Accepting the recommendation of the Commission, Government rejected the request of the

petitioners who had moved the Government for advising candidates from the expired list. It would appear that the Government wanted to reopen the above issue and in that process made one more request to the Public Service Commission to reconsider the decision it had taken. Under the above circumstances, Ext.P11 Government letter happened to be issued to the Secretary to the Public Service Commission requesting that the proposal made by the Government may be placed before the Commission for appropriate decision. On the assumption that the request made by the Government as per Ext.P11 letter was pending consideration, the petitioners filed Ext.P12 representation addressed to the Secretary, Public Service Commission and thereafter has filed this writ petition seeking for a direction to the 2nd respondent Commission to consider Ext.P12 representation and to take favourable decision as requested in Ext.P11 so as to enable the Government to issue appropriate directions to the 3rd respondent Director.

2. Government Pleader as also the counsel for the 2nd respondent were directed by this Court to seek instructions. On instructions, it is submitted that the request made by the Government as per Ext.P11 letter was considered by the Commission and it was decided to reject the request for reasons stated in the letter dated 20-7-

2006 sent by the Commission to the Government. The reasons which weighed with the Commission to reject the request contained in Ext.P11 have been stated in that letter, submits counsel for the 2nd respondent. Government Pleader submits that the Government after perusing the letter written by the Public Service Commission on 20-7-2006 felt that there was no need for reopening the issue and that the opinion expressed by the Commission can be accepted. Accordingly, Government sent letter dated 1-9-2006 to the Commission intimating the decision it had taken pursuant to letter dated 20-7-2006 of the Commission.

3. In the fact situation, the relief prayed for by the petitioners do not survive. No action is due at present pursuant to Ext.P11. The request made as per Ext.P12 has become infructuous. The writ petition is liable to be dismissed on that ground. It would, however, be open to the petitioners to seek remedies, if any, available in law, if they feel aggrieved by the decision of the Government. Without prejudice to that right, this writ petition is dismissed.

K.K.DENESAN, JUDGE.

kvs/-